

AMENDED IN SENATE APRIL 29, 2015

**SENATE BILL**

**No. 480**

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**Introduced by Senator Pan**

February 26, 2015

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An act to add *and repeal* Section 97.83~~to~~, of, and to add *and repeal* Part 11 (commencing with Section 5500)~~to~~ of Division 1 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 480, as amended, Pan. Taxation: qualified heavy equipment.

The California Constitution authorizes the Legislature to classify personal property for differential taxation or for exemption by means of a statute approved by a  $\frac{2}{3}$  vote of the membership of each house.

This bill would, pursuant to this constitutional authorization, on and after July 1, 2016, *to before July 1, 2026*, impose a tax on every qualified renter for the privilege of renting qualified heavy equipment in this state at the rate of 0.75% of the rental price from the renting of qualified heavy equipment. This bill would require a qualified renter to pay and remit the tax, as provided. This bill would provide that this tax shall be in lieu of any personal property tax on qualified heavy equipment. This bill would require the tax to be administered by the State Board of Equalization and to be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. This bill would require all revenues, interest, penalties, and other amounts, less refunds and the board's costs of administration, derived from the imposition of the tax to be deposited in the General Fund.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that

each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

This bill would, for the 2016–17 fiscal year ~~and for each fiscal year thereafter~~, *to the 2025–26 fiscal year, inclusive*, require the county auditor to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated among the county and each city and special district in the county by the qualified heavy equipment reimbursement amount, as defined, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those ~~revenue~~ *revenues* otherwise required to be allocated to school districts, as specified, by the qualified heavy equipment reimbursement amount.

By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, and by imposing new duties upon local officials in the allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 97.83 is added to the Revenue and  
2 Taxation Code, to read:  
3 97.83. (a) (1) Notwithstanding any other law, for the 2016–17  
4 fiscal year ~~and for each fiscal year thereafter, to the 2025–26 fiscal~~  
5 ~~year, inclusive~~, the auditor of each county shall do both of the  
6 following:  
7 (A) Increase the total amount of ad valorem property tax revenue  
8 that is otherwise required to be allocated among the county and  
9 each city and special district in the county by the qualified heavy  
10 equipment reimbursement amount. The qualified heavy equipment  
11 reimbursement amount shall be allocated among the county, cities,  
12 and special districts in proportion to the amounts of ad valorem  
13 property tax revenue otherwise allocated among those local  
14 agencies.  
15 (B) Decrease the total amount of ad valorem property tax  
16 revenue that is otherwise required to be allocated to the county's  
17 Educational Revenue Augmentation Fund by the qualified heavy  
18 equipment reimbursement amount.  
19 (2) (A) In the event that the county's Educational Revenue  
20 Augmentation Fund does not have sufficient funds to offset the  
21 qualified heavy equipment reimbursement amount, the auditor  
22 shall, to the extent that those funds are insufficient, decrease the  
23 total amount of ad valorem property tax that is allocated to local  
24 school districts providing instruction for kindergarten and grades  
25 1 to 12, inclusive, that are excess tax school entities, in proportion  
26 to their allocations of ad valorem property tax revenue allocated  
27 to school districts providing instruction for kindergarten and grades

1 1 to 12, inclusive, in the county, and allocate that amount among  
2 the county, cities, and special districts in proportion to the amounts  
3 of ad valorem property tax revenues otherwise allocated among  
4 those local agencies.

5 (B) In the event that the amount of ad valorem property tax  
6 revenues allocated to the Educational Revenue Augmentation  
7 Fund, together with the allocations to those school districts  
8 providing instruction for kindergarten and grades 1 to 12, inclusive,  
9 that are excess tax school entities, is insufficient to offset the  
10 qualified heavy equipment reimbursement amount, the auditor  
11 may also decrease the amount of ad valorem property tax revenues  
12 allocated to school districts providing instruction for kindergarten  
13 and grades 1 to 12, inclusive, that are not excess tax school entities,  
14 and allocate that amount among the county, cities, and special  
15 districts in proportion to the amounts of ad valorem property tax  
16 revenue otherwise allocated among those local agencies.

17 (b) For purposes of this section, “qualified heavy equipment  
18 reimbursement amount” means the total amount of ad valorem  
19 property tax revenue received by the county and each city and  
20 special district in the county in the 2014–15 fiscal year from renters  
21 of qualified heavy equipment, as defined in Part 11 (commencing  
22 with Section 5500) of Division 1.

23 (c) For the 2017–18 fiscal year ~~and for each fiscal year~~  
24 ~~thereafter, to the 2025–26 fiscal year, inclusive,~~ ad valorem  
25 property tax revenue allocations made pursuant to Sections 96.1  
26 and 96.5, or any successor to either of those provisions, shall not  
27 incorporate the allocation adjustments made by this section.

28 (d) *This section shall be repealed on January 1, 2027.*

29 SEC. 2. Part 11 (commencing with Section 5500) is added to  
30 Division 1 of the Revenue and Taxation Code, to read:

31  
32 **PART 11. TAXATION OF QUALIFIED HEAVY EQUIPMENT**

33  
34 5500. For purposes of this part, all of the following definitions  
35 shall apply:

36 (a) “Rental price” means the total amount of the charge for  
37 renting the qualified heavy equipment, excluding any separately  
38 stated charges that are not rental charges, including, but not limited  
39 to, separately stated charges for delivery and pickup fees, damage  
40 waivers, environmental mitigation fees, or use taxes.

1 (b) (1) “Qualified heavy equipment” means any construction,  
2 earthmoving, or industrial equipment that is mobile and rented by  
3 a qualified renter, including attachments for the equipment or other  
4 ancillary equipment, including, but not limited to, all of the  
5 following:

6 (A) A self-propelled vehicle that is not designed to be driven  
7 on the highway.

8 (B) Industrial electrical generation equipment or portable  
9 heating, ventilating, and air-conditioning equipment.

10 (C) Industrial lift equipment.

11 (D) Industrial material equipment.

12 (E) Equipment used in shoring, shielding, and ground trenching.

13 (F) Equipment or vehicles not subject to the fee imposed  
14 pursuant to the Vehicle License Fee Law (Part 5 (commencing  
15 with Section 10701) of Division 2).

16 (2) Qualified heavy equipment is mobile if the qualified heavy  
17 equipment is not intended to be permanently affixed to real  
18 property for the purpose of using the qualified heavy equipment  
19 for its intended use. Qualified heavy equipment is mobile if it is  
20 intended to be moved among worksites as needed.

21 (c) “Qualified renter” means a renter that satisfies all of the  
22 following:

23 (1) The principal business of the renter is the rental of qualified  
24 heavy equipment.

25 (2) Is engaged in a line of business described in Code 532412  
26 of the North American Industry Classification System published  
27 by the United States Office of Management and Budget, 2012  
28 edition.

29 (d) “Renting” or “rent” means a rental for a period of less than  
30 365 days or for an undefined period, or an open-ended contract.

31 5501. (a) On and after July 1, 2016, *and before July 1, 2026*,  
32 there is hereby imposed a tax on every qualified renter for the  
33 privilege of renting qualified heavy equipment in this state at the  
34 rate of 0.75 percent of the rental price from the renting of qualified  
35 heavy equipment.

36 (b) The qualified renter shall pay and remit the tax to the board  
37 as required by this part.

38 (c) The board shall administer and collect the tax imposed by  
39 this part pursuant to the Fee Collection Procedures Law (Part 30  
40 (commencing with Section 55001) of Division 2). For purposes

1 of this part, the references in the Fee Collection Procedures Law  
2 to “fee” shall include the tax imposed by this part, and references  
3 to “feepayer” shall include a person liable for the payment of the  
4 taxes imposed by this part and collected pursuant to that law.

5 5502. Every qualified renter shall register with the board. Every  
6 application for registration shall be made upon a form prescribed  
7 by the board and shall set forth the name under which the applicant  
8 transacts or intends to transact business, the location of its place  
9 or places of business, and other information as the board may  
10 require. An application for an account shall be authenticated in a  
11 form or pursuant to methods as may be prescribed by the board.

12 5503. The board may prescribe, adopt, and enforce regulations  
13 relating to the administration and enforcement of this part,  
14 including, but not limited to, collections, reporting, refunds, and  
15 appeals.

16 5504. The taxes imposed by this part are due and payable to  
17 the board quarterly on or before the last day of the month next  
18 succeeding each quarterly period.

19 5505. (a) On or before the last day of the month following  
20 each quarterly period of three months, a return for the preceding  
21 quarterly period shall be filed using electronic media with the  
22 board.

23 (b) The board may prescribe those forms and reporting  
24 requirements as are necessary to implement the tax.

25 (c) Returns shall be authenticated in a form or pursuant to  
26 methods as may be prescribed by the board.

27 5505.5. *A qualified renter is relieved from liability for the tax*  
28 *imposed by this part that became due and payable, insofar as the*  
29 *measure of tax on the rental of qualified heavy equipment is*  
30 *represented by accounts which have been found worthless and*  
31 *charged off for income tax purposes. If the qualified renter has*  
32 *previously paid the amount of the tax, the qualified renter may,*  
33 *under the rules and regulations prescribed by the board, take as*  
34 *a deduction the amount found worthless and charged off by the*  
35 *retailer. If any such accounts are thereafter in whole or in part*  
36 *collected by the qualified renter, the amount so collected shall be*  
37 *included in the first return filed after such collection and the tax*  
38 *shall be paid with the return.*

1 5506. All revenues, interest, penalties, and other amounts  
2 collected pursuant to this part, less refunds and the board's costs  
3 of administration, shall be deposited in the General Fund.

4 5507. (a) For the 2016–17 fiscal year ~~and for each fiscal year~~  
5 ~~thereafter, to the 2025–26 fiscal year, inclusive~~, the tax imposed  
6 pursuant to this part shall be in lieu of any property tax on qualified  
7 heavy equipment subject to taxation pursuant to this part.

8 (b) Property of a qualified renter that is not subject to the tax  
9 imposed pursuant to this part shall remain subject to any applicable  
10 property taxes.

11 5508. *This part shall be repealed on January 1, 2027.*

12 SEC. 3. *The repeal of Part 11 (commencing with Section 5500)*  
13 *of Division 1 of the Revenue and Taxation Code by the act adding*  
14 *this section shall not affect any act done or any right accruing or*  
15 *accrued, or any suit or proceeding had or commenced in any civil*  
16 *cause, before such repeal; but all rights and liabilities under such*  
17 *law shall continue, and may be enforced in the same manner, as*  
18 *if such repeal had not been made.*

19 ~~SEC. 3.~~

20 SEC. 4. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution for certain  
22 costs that may be incurred by a local agency or school district  
23 because, in that regard, this act creates a new crime or infraction,  
24 eliminates a crime or infraction, or changes the penalty for a crime  
25 or infraction, within the meaning of Section 17556 of the  
26 Government Code, or changes the definition of a crime within the  
27 meaning of Section 6 of Article XIII B of the California  
28 Constitution.

29 However, if the Commission on State Mandates determines that  
30 this act contains other costs mandated by the state, reimbursement  
31 to local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.

34 ~~SEC. 4.~~

35 SEC. 5. Notwithstanding Section 2229 of the Revenue and  
36 Taxation Code, no appropriation is made by this act and the state  
37 shall not reimburse any local agency for any property tax revenues  
38 lost by it pursuant to this act.

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